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Technical assistance and capacity-building

Report of the Chairperson of the Board of Trustees of the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights*

Summary

The present report is submitted pursuant to Human Rights Council resolution 18/18, in which the Council invited the Chairperson of the Board of Trustees of the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights to present a comprehensive report on the Board's work on an annual basis, starting from the twentieth session of the Council. It provides an update on the work of the Board of Trustees of the Fund since the previous report of the Chairperson of the Board (A/HRC/26/51).

* The annexes to the present report are circulated as received

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I. Introduction

A. Background

1. The United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights, established by the Commission on Human Rights in its resolution 1987/83, receives voluntary contributions from Governments, organizations and individuals. The objective of the Fund is to provide financial support for international cooperation aimed at building up and strengthening national and regional institutions and infrastructures that will have long-term impact on improved implementation of international human rights standards.

2. The Board of Trustees has been operational since 1993 and its members are appointed by the Secretary-General for a three-year renewable term. The mandate of the Board is to assist the Secretary-General in streamlining and rationalizing the working methods and procedures of the technical cooperation programme. It meets twice a year and reports on its work to the Secretary-General and the Human Rights Council. Current members are Mariclaire Acosta Urquidi (Mexico), Christopher Sidoti (Australia), Lin Lim (Malaysia), Valeriu Nicolae (Romania) and Esi Sutherland-Addy (Ghana). Mr. Nicolae and Ms. Sutherland-Addy were appointed to the Board in January 2015, replacing Sozar Subari (Georgia) and Fatimata Mbaye (Mauritania) respectively, who ended their terms on 31 December 2014. The Board elected Ms. Acosta as chairperson from 30 June 2014 until 30 June 2015, when she will be replaced by Lin Lim, who was elected chairperson by the Board at its forty-first session, in Phnom Penh and in Bangkok.

B. Mandate

3. Throughout the period under review, the Board of Trustees continued to engage actively with the Office of the United Nations High Commissioner for Human Rights (OHCHR), including its field presences, providing advice on policy orientation and strategic vision on technical cooperation components of all its programmes. This refocused approach, which is framed within the broad definition of technical cooperation, was agreed upon by the Board of Trustees and presented to Member States in the annual report of the Secretary-General submitted to the Human Rights Council in 2011.[1]

4. The members of the Board are also the constituent members of the Board of Trustees for the Voluntary Fund for Financial and Technical Assistance in the Implementation of the Universal Periodic Review. In that capacity, they continued to provide OHCHR with policy guidance in order to maximize the effectiveness of technical assistance and financial support for States in implementing recommendations of the universal periodic review and other international mechanisms at the State level (see A/HRC/29/22).

5. The Board sessions, held both in Geneva and in countries where OHCHR has a presence, have been particularly useful in increasing the understanding of the synergies and the mutual reinforcing aspects of the support provided by OHCHR through the two funds. These aspects, together with the discussion on the financial and administrative elements governing the two funds, help the Board members to continue to refine the various aspects of their dual and separate mandates in order to achieve their aims more effectively and to

[1] A/HRC/16/66.

strengthen further the complementarities between the two funds. For this reason, the Board encourages OHCHR to continue to develop avenues for greater integration of aspects relevant to the two funds.

6. The present report covers the fortieth and forty-first sessions of the Board in its capacity relating to the Voluntary Fund for Technical Cooperation in the Field of Human Rights. At those sessions, the Board continued to explore various components of the human rights programme funded by the Fund within the framework of the OHCHR Organizational Management Plan for 2014-2017 with a view to providing policy guidance and advice on technical cooperation by OHCHR.

II. Activities and results of the Voluntary Fund and the Board of Trustees

A. Fortieth session

7. The Board of Trustees of the Voluntary Fund for Technical Cooperation in the Field of Human Rights held its fortieth session in Geneva, from 14 to 16 October 2014. The session was chaired by Mariclaire Acosta, who had been elected Chairperson of the Board of Trustees at its thirty-ninth session. All members of the Board attended the session.

8. The main objectives of the session were to take stock of the financial and administrative situation of the fund and the plans ahead for 2015; to provide comments on the draft OHCHR practical guide on civil society space and the United Nations human rights system; to share views on current human rights challenges and issues, such as Ebola, and/or humanitarian situations, including conflict and insecurity, and their implications for meeting OHCHR targets; to acquire a better understanding of the work of Human Rights Components of United Nations peace missions in the area of technical cooperation; and to follow up on previous visits, with particular focus on the Middle East and North Africa region. The Board also took the opportunity during the session in Geneva to continue to provide expertise and advice on the thematic strategies of OHCHR and its technical cooperation components, in particular on early warning and the protection of human rights in situations of conflict and insecurity, on widening the democratic space and on human rights in development and in the economic sphere. The use of human rights indicators, their adaptation to national situations and their practical application in measuring the impact on the ground, and the tools available in the area of business and human rights, were issues paid specific attention by the Board given the interest generated during its recent visits. The Board also received an update on developments in the post-2015 development agenda.

9. The High Commissioner briefed the Board on the financial status of OHCHR and the level of voluntary contributions, including for the Voluntary Fund for Technical Cooperation in the Field of Human Rights, which unfortunately is not growing at the same pace as the requests for support and expectations from States. The Board is gravely concerned at the financial situation of OHCHR, and expressed its total support for the High Commissioner and his call for increased resources from both the regular budget of the United Nations and voluntary contributions, particularly at such a critical time, when the operational capacities of the Office should be further strengthened rather than increasingly stretched. In the light of the situation and as a way of symbolic contribution, the Board decided to hold one session only in 2015 (field session) and to postpone to 2016 its second session (the session at headquarters), which would be held in conjunction with the field session. The Board, with the support of the secretariat, is using modern technologies to provide a constant update on the management and use of the Fund.

10. The Board was pleased by the quality of information and availability of the secretariat to provide specific reports with relevant information on the use of the Fund facilitated by latest upgrades and full use of the performance monitoring system across OHCHR. The presentation by the secretariat of the specific programmes financed by the Fund by region and relevant to the various thematic strategies were complemented by briefings and discussions with staff from the Policy, Planning, Monitoring and Evaluation Service, Programme Support Management Services and the Donor and External Relations Section, who provided additional updates on the status of all financial and operational aspects of the Fund. The Board discussed with the relevant services of the Office the low level of contributions to the Fund compared with its increasing requirements, which in 2014 obliged the High Commissioner to allocate $8 million to the Fund from unearmarked contributions to OHCHR in order to close the existing funding gap under the Fund.

11. The Board was invited to provide inputs for the publication *Civil Society Space and the United Nations Human Rights System: A Practical Guide for Civil Society* produced by the Civil Society Section of OHCHR. The aim of the guide is to highlight issues relating to the work of civil society actors, with an overview of the conditions and environment needed for a free and independent civil society, including relevant international human rights standards for freedom of expression, association and peaceful assembly and the right to participate in public affairs. The guide includes examples of how Governments and civil society actors have worked together to develop space for civil society to carry out its work to advance the enjoyment of all human rights (civil, cultural, economic, political and social) for all. Some of the examples included in the guide were made possible by the support provided by the Voluntary Fund for Technical Cooperation to local partners. One example was the development of the 2012 Law for the Protection of Human Rights Defenders and Journalists in Mexico. During its visit to Tunisia in 2013, the Board had the opportunity to discuss with local partners the participation of civil society bodies in a number of initiatives during the democratic transition, including in the preparation of laws on accession to a number of international human rights treaties. The strengthening of the capacities of civil society actors to engage with international human rights mechanisms should be accompanied by instruments to respond adequately to the rise in demand. This is particularly important in the context of the regrettably increasing number of cases of reported reprisals against civil society actors in many parts of the world.

12. The Board was briefed by the Rapid Response and Peace Missions Support Section and staff on the support provided through the human rights components in United Nations peace missions. Given the complexity of such situations, the support from components is notable. The experiences shared from the work in Afghanistan, the Democratic Republic of the Congo and Haiti should be used to continue to raise the profile of components during negotiations on establishing mission mandates. The Board notes the usual practice of not allocating funds missions of this type to technical cooperation programmes focused on human rights components owing to competing priorities. This is an issue that the Board believes should be revisited and carefully analysed The Board is interested in improving its knowledge of the technical cooperation programmes of these components and is exploring possibilities to visit a peacekeeping mission in the near future.

13. The Board held discussions with relevant staff members from the Middle East and North Africa Section and the heads of OHCHR field presences in the region by means of teleconferences on relevant developments in the region since its earlier visits to several OHCHR presences. The work of the Office in the region clearly illustrates the importance of drawing on all the capacities of the Office so that technical cooperation and advisory services are based firmly on a comprehensive and coherent understanding of the particular conditions on the ground, a result of systematic monitoring and analysis. The opportunity for measurable success in the implementation of technical cooperation programmes is greater when a comprehensive strategy integrating all relevant components of the work of

the Office is in place. The medium- and long-term engagement needed to see the results of capacity-building efforts is another critical aspect. In this regard, the experiences of the offices in Tunisia and Palestine serve as an inspiration for similar programmes in other parts of the region and in other regions.

B. Forty-first session

14. Pursuant to the Board's practice of holding one of its two meetings each year in a State where OHCHR has a field presence, the forty-first session was held in Phnom Penh from 9 to 11 February 2015 and in Bangkok from 12 to 13 February 2015. This was the fourth time that a session of the Board was organized outside Geneva.

15. The visit to the OHCHR country office in Cambodia, the oldest OHCHR field presence established in 1993 tracing its origins back to the United Nations Transitional Authority in Cambodia, represented an excellent opportunity for the Board to observe in situ how the various components of the work of the Office, including its technical cooperation programmes, work together to better serve and support national efforts to ensure the enjoyment of human rights by all. The main purpose of the visits, as in the case of previous sessions and visits to the field, was to continue to gather in situ observations of the added value of OHCHR technical cooperation efforts and areas that required strengthening in the design and implementation of OHCHR programmes. The Board also had the opportunity to explore how the design and implementation of such programmes were intimately linked with all components of the various areas of work of the Office and how the Office works with the rest of the United Nations family to promote human rights.

16. The visit to the OHCHR Regional Office for South East Asia in Bangkok was an opportunity for Board members to better understand the type of support being provided from a regional setting. The Board noted that the Office had gone through important transformations for the three previous years, which have strengthened the capacity of OHCHR to respond to, and to provide support in, complex situations. The Board was pleased to be able to observe an OHCHR regional office in action, and welcomed the efforts made to strengthen the regional office further. The visit confirmed its view of the importance for OHCHR of continuing to seek to establish regional offices in all regions to ensure global coverage and the global implementation of the full mandate of the High Commissioner, in accordance with General Assembly resolution 48/141. While in Bangkok, the Board also held discussions with the human rights advisers deployed to United Nations country teams in the region. The Advisers had been deployed with support of the Voluntary Fund to States such as Sri Lanka and Papua New Guinea, or are being deployed under the United Nations Development Group – Human Rights Working Group framework to States including Timor-Leste and the Philippines.

17. In Cambodia, the Board discussed technical cooperation activities by the OHCHR presence in the country with different national authorities, United Nations partners and civil society organizations. This included visits to selected projects, such as the resettlement site at Oudong, the Court in Kampong Speu and the Correctional Centre 1, where the Board was briefed on the specific situation of human rights on the basis of the Office's observations and how specific technical cooperation programmes and advisory services supported national institutions, in particular State authorities, including the Ministry of the Interior and the Ministry of Justice, in addressing remaining challenges.

18. During the visit, the Board held discussions with representatives of the Ministry of Foreign Affairs, the Ministry of the Interior and other relevant State institutions on the support provided in various thematic areas, including through technical cooperation and advisory services, for example, on follow-up to recommendations made by human rights

mechanisms in the area of justice system reform, prison reform, implementation of the Convention against Torture and the Optional Protocol thereto, land rights and the right to housing. The situation of human rights defenders and the critical importance of keeping the space open for civil society actors in order to continue to support the State's efforts in the area of human rights were also a main area of discussions with relevant stakeholders. Particularly important for the Board was the good cooperation between the Office and the Ministry of the Interior. The Office had been able to use its convening capacity to promote dialogue and understanding on crucial current issues, including those related to access to land and the exploitation of natural resources.

19. In its discussions with representatives of the Ministry of Justice, the Board was able also to understand the progress made in strengthening the justice system in the country. One of the issues discussed with both the Ministry of the Interior and the Ministry of Justice was that of prison overcrowding, something the Board had witnessed during its visit to Correctional Centre 1. The Board was of the view that, in order to build on the achievements made to date by the ongoing technical cooperation programmes in the area of prison reform, the State could request further support from the Office, in particular on issues requiring joint action by both ministries to respond effectively to the important concerns regarding overcrowding and the large number of persons in pretrial detention. The visit to the Kampong Speu Court, which was built and operated with the support of OHCHR and the United Nations Development Programme, had given the Board the chance to observe both progress made and the challenges remaining in the area of justice reform. The Board had also observed the result of the technical cooperation efforts made in the formulation and implementation of the new Code of Criminal Procedure, including the participation of all judges and prosecutors in round-table and panel discussions across the country in order to identify challenges and possible solutions. The Board had appreciated the enormous efforts made to completely rebuild the court system in Cambodia, but remained concerned that there was still a critical need for support in order to allow the system to become fully operational. This was all the more urgent given that the Board was informed by State officials that resources were becoming extremely limited.

20. The Board had held discussions with the Cambodia Human Rights Committee on the technical support provided by OHCHR and other United Nations partners in a number of legislative processes. Concerns with regard to both the current difficulties encountered by civil society and the potential impact that proposed legislation might have on the space for civil society organizations to operate were discussed. The Board very much hoped that any initiative planned in this direction would fully take into account existing international standards and good practices around the world. Maintaining this space was essential for civil society to continue to carry out its crucial role in national development.

21. In both Phnom Penh and Bangkok, the Board held discussions with civil society representatives, at both the country and regional levels, on the increasingly restricted contexts in which they worked, the efforts of the Office to protect and increase civil society space, and the technical support received from the Office to strengthen capacities to better engage with human rights mechanisms. Other issues discussed included concerns relating to human rights defenders, the promotion of freedom of expression and assembly, and participation in national policy processes. The Board was also briefed about human rights issues relating to land and the environment, migration and the fight against human trafficking.

22. During meetings with the Board, representatives of the United Nations agencies and programmes in Phnom Penh and Bangkok confirmed the critical guiding role that OHCHR played in supporting the integration of recommendations made by international human rights mechanisms, including the special procedures, treaty bodies and the universal periodic review, into United Nations programme tools on the ground, including the United

Nations Development Assistance Frameworks. When the outcome of these mechanisms were fully integrated into the early stages of programming, planning and assessment processes, there were greater opportunities to develop sound programmes to support States' efforts to address critical human rights issues and to develop solid partnerships with relevant national institutions. In this context, discussions with human rights advisers deployed in the region were particularly enlightening with regard to opportunities and areas requiring improvement, in particular their capacity to provide technical cooperation and advisory services in collaboration with other United Nations agencies.

23. The Board took the opportunity of its visit to Bangkok to discuss (via teleconferencing) with the chairpersons of the national human rights commissions of Malaysia and the Philippines the Office's support for the establishment and strengthening of national protection systems, of which national human rights institutions that comply with the Paris Principles were a key pillar. The Board also discussed developments regarding the Intergovernmental Commission on Human Rights of the Association of Southeast Asian Nations. The Board reiterated its view that technical cooperation in the field of human rights should give high priority to the development and strengthening of national human rights systems and institutions. It was pleased to learn that 6 of the 11 States in South-East Asia had national human rights institutions, and that five of those six had "A" status. It noted the strong support given to national human rights institutions by the regional office and its close collaboration with them. It encouraged the regional office and other OHCHR field presences in the region to continue this support and collaboration.

24. The Board found that OHCHR priorities in Cambodia during the programming cycle for the period 2014-2017were in line with the expectations of national stakeholders, and that the Office continued to be seen, more than 20 years since its establishment, as a reliable partner with the capacity to respond adequately to new challenges, for example, in the area of access to land and housing. The Board considers that the Office would benefit from strengthening its efforts and capacity together with relevant State institutions to continue to provide support to turn into concrete capacity-building actions the specific needs for protection of civil society space and the work of human rights defenders and organizations that have played a critical role in supporting the advances made in the country. This is particularly relevant in preparations for the next electoral period, during which the Office could provide valuable advice within the framework of its thematic strategy on widening democratic space.

25. The Board is of the view that the programme of the Regional Office for South-East Asia is also in line with the expectations of main partners with whom the Board met, including State officials and representatives of regional institutions and national human rights mechanisms, civil society and United Nations partners. The Board encourages the Office to continue to invest in strengthening the methodologies in place for thematic research, and to improve mechanisms for data collection and data analysis and the collection of lessons learned and good practices. The Board is particularly pleased with the recent strengthening of the capacities of the Regional Office to respond to humanitarian emergencies and to enlarge its thematic expertise, for example in the area of land-related issues. The Board encourages OHCHR to continue to deploy thematic expertise to its regional presences in order to make such expertise more readily available at the regional and country levels.

26. The Board was most impressed again with the dedication and commitment of so many of the OHCHR and other United Nations staff member that it met during its visits. These officials work often in difficult and challenging contexts. They are often confronted with situations where they are required to work in isolation from other colleagues and, in many cases, from their families. Throughout its visits, the Board observed the incredible added value of staff members who had experience from the different parts of the Office,

across regions and within various parts of the United Nations system in supporting building solid programmes and partnerships on the ground.

27. As demonstrated throughout the recent visits and the discussions held with all partners on the ground, direct exposure to the situation on the ground is particularly helpful for the Board when identifying and proposing advice on ways to continue to strengthen the technical cooperation of the Office. The availability of the Office and opportunities it has to be present in places where action is needed and to use all possible tools within the full scope of the mandate of the High Commissioner is critical for the implementation of effective technical cooperation. During the Board's visits to Africa, the Americas and Asia, as in its latest thematic reports to the Human Rights Council on technical cooperation and national policies and inclusive and participatory development,[2] and in the annual reports of the Office, numerous good practices yielding key measurable results have been identified and documented. These are experiences that could be replicated or emulated in other parts of the world.

28. The Board took the opportunity of part of its last day in Bangkok to hold an internal meeting to continue discussions on its future programme. During the meeting, the Board formally welcomed the two newly appointed members, Esi Sutherland-Addy and Valeriu Nicolae. Lin Lim was elected chairperson of the Board to succeed Ms. Acosta from 1 July 2015. The Board also proposed to explore the possibility of focusing the next field session in 2016 on the Europe and Central Asia Region and combining it with the shortened, postponed annual session in Geneva.

III. Technical cooperation

A. Technical cooperation, the broadest possible participation of all elements of national societies and its complementarity to efforts of regional and subregional human rights mechanisms

29. The Board has brought to the attention of the Human Rights Council a number of components for effective technical cooperation by OHCHR that have become evident in its experience of overseeing the management of the Voluntary Fund. The Board, through its reports and presentations to the Council, has already elaborated on (a) the importance of anchoring technical cooperation to the universality and indivisibility of all human rights, including its protection and promotion aspects; (b) the critical importance of building and strengthening national frameworks and institutions in the field of human rights through technical cooperation and advisory services with the support of OHCHR; and (c) the importance of partnerships with United Nations entities on the ground.

30. As part of its programme of work for the coming years, the Board would like to continue to elaborate on the main elements of the above-mentioned components, as it considers that this could be beneficial for supporting the Office in the implementation of the technical cooperation aspects of its programme for 2014-2017 and subsequent ones. In the present report, the Board elaborates on its view that, for technical cooperation programmes to be successful and effective, they should ensure the broadest possible participation of all elements of national societies and be complementary to efforts of regional and subregional human rights mechanisms, one of the mentioned components.

[2] A/HRC/27/41 and A/HRC/28/42.

31. Effective technical cooperation must be based on the broadest possible participation and consultation with all the elements of national society. This aspect is a key element to achieving the two main of objectives of technical cooperation, namely, to improve the promotion and protection of human rights for all, and to ensure the sustainability of outcomes.

32. The term "participation" should be understood as an inclusive term that refers to engagement with all relevant actors in all the stages of the technical cooperation process, from needs assessments to the design, formulation, implementation, monitoring and evaluation of impact of these programmes. It should be noted that, in this case, both the process and the outcome are equally important and mutually dependent. There can be no good human rights outcome without a good human rights process. Investing in the full participation of all sectors is crucial in ensuring that efforts to strengthen national protection mechanisms, including through better legislation, policies and institutions, are built and developed in a sustainable manner, and that investment continues to yield results once technical support comes to an end.

33. Participation is a fundamental human rights principle – a human right in itself – and central to the efficiency and sustainability of development efforts, including through technical cooperation and assistance. It demands that all persons from all sectors of society be entitled to active, free, meaningful and informed participation in any efforts of the State aimed at realizing the full enjoyment of life in dignity. The enjoyment of the right to participation depends on the realization of other human rights, including the rights to freedom of association, assembly and expression, just to mention a few. To enable meaningful participation, it is critical to ensure free access to information and full transparency in decision-making processes. Numerous technical cooperation programmes at the national level with the support of the United Nations are specifically designed to support national efforts to enable an environment where these rights can be fully realized and the fruits of those programmes enjoyed by all.

34. Women across regions and countries face deeply rooted challenges to their enjoyment of equal participation in decision-making and leadership processes, in particular women from marginalized and disadvantaged groups. Women are inadequately represented in relevant community organizations, local settings and legal decision-making bodies, which are essential avenues for ensuring participation. . Deeply rooted gender bias present in many societies may require that quotas for women be established in, inter alia, education and training programmes, and leadership positions in decision-making bodies, to achieve gender equality and the empowerment of women. For these reasons, effective technical cooperation programmes, and particularly those in the field of human rights, have to take into account, at all stages from design through to implementation, all these limitations and challenges, such as mobility, resources, caregiving responsibilities and lack of familiarity with policies, to ensure that they do not constrain or limit the active participation of women at any level. Some of the effective practices to ensure women's participation include, for example, actively looking for women's inputs during the discussions, making sure that women receive appropriate information to participate, offering child care during the participatory processes, scheduling meetings in a way that is compatible with women's care responsibilities and where necessary, holding exclusive sessions for women.

35. During its visits to field presences and discussions held with State institutions, the Board observed several obstacles to meaningful representation and innovative practices to promote participation. Regrettably, opportunities to address properly the obstacles or to share promising experiences are often limited. States and key stakeholders have recognized in private meetings with the Board the key convening role that the Office plays in supporting these consultative and participatory processes. The most recent report of the High Commissioner on technical assistance to support inclusive and participatory

development and poverty reduction at the national level (A/HRC/28/42) included relevant examples in the area of participation, some of which possible by the Fund, that could inspire other States seeking support in this critical area.

36. The Board had the opportunity during its field session to visit some of the examples included in the above-mentioned report and other relevant projects, and to discuss with the relevant stakeholders and beneficiaries the ways in which effective and meaningful participation had been and could be promoted through technical cooperation and advisory services support. For example, during its visit to Mexico in 2014, the Board discussed with the Ministry of the Interior the programmes in place with support from the OHCHR country office for the development of the national human rights plan of action and State-level plans, including the mechanisms for participation. In Coahuila, the Board had the opportunity to see closely and discuss, with the Governor of the State and other relevant stakeholders, the operationalization of the human rights plan of action at the State level. During its visit to Mauritania in 2013, the Board learned about the capacity-building efforts of the OHCHR country office in support of community coalitions working against slavery, succeeding in having laws strengthened and working towards more effectively enforcement. In its recent visit to Cambodia, the Board was particularly pleased by the level of recognition by the authorities in the Ministry of the Interior of the convening role that the Office in Cambodia was playing to support the Government in holding provincial dialogues and animating participation of relevant groups, with particular emphasis on disadvantaged groups, regarding critical current human rights issues, such as land rights.

37. The underrepresentation of most discriminated groups, including ethnic minorities, indigenous peoples' and other most disadvantaged groups, in both consultations and decision-making processes remains a serious issue to be addressed when it comes to ensuring meaningful and effective participation. Increased social exclusion and a widening socioeconomic gap between the majorities and these groups is a challenge that needs significantly better policies and action by all stakeholders involved. Capacity-building and institutional support for individuals and organizations representing the most vulnerable and discriminated groups needs to become more visible throughout the thematic strategies for OHCHR offices and the programmes in place to implement these strategies. The Office has developed on the basis of its years of experience numerous good practices through technical cooperation programmes on, for example, indigenous peoples' participation; representation and participation of persons belonging to minorities; and the full involvement of persons with disabilities in standard-setting processes. The Board encourages the Office to continue to build on these experiences, joining forces also with the experience of other relevant organizations, including regional human rights institutions and mechanisms.

B. Synergy and partnerships with other United Nations entities

38. The Board continues to focus much of its attention on synergy and partnerships among United Nations agencies and programmes in the area of technical cooperation in the field of human rights during its sessions, in particular during its visits to OHCHR presences in countries. The promotion and protection of human rights is one of the three pillars of the United Nations and so is a responsibility shared by all United Nations agencies. Each can contribute within its own mandate, complementing the work of the High Commissioner, for greater effectiveness of the United Nations Organization as a whole. The Board is also aware of the very few resources available to the High Commissioner in both absolute and relative terms when compared with many other United Nations agencies, and of the need, for the most practical of reasons, to encourage other United Nations agencies to share the burden of implementing the human rights pillar.

39. Through the latest discussions with United Nations Resident Coordinators and representatives of other United Nations agencies and programmes (for example from Malaysia (via teleconference) and Thailand in 2015, as in Mexico in 2014 and previously in Tunisia and Mauritania), the Board has had the opportunity to study the extent to which the programme, priority focus and activities of the various types of OHCHR presences are also in line with or respond to the main human rights issues and the demands from a variety of country partners, and how they relate and are linked to the United Nations development framework, other programming tools and joint United Nations development efforts on the ground.

40. The Board has observed that the Office has managed to be extremely innovative and active, taking into account the extremely limited at is disposal, and found it to be a reliable and critical partner in joint capacity-building and advisory services provided by the United Nations at the request of Governments.

41. The discussions with, for example, the Resident Coordinator in Malaysia served in particular to gain an insight into the expectations facing the Office from the United Nations system and how the Office can provide support from a regional presence, such as the Regional Office for South-East Asia in Bangkok. During the discussions, the role of the Office in ensuring the mainstreaming of human rights throughout the work of United Nations country teams was particularly stressed, as was the capacity of the Office to provide timely and substantive advice on relevant normative human rights issues. All United Nations partners, however, recognized that an adequately staffed and mandated presence of the Office is a key factor in providing adequate assistance to jointly develop technical cooperation programmes at the request and in close cooperation with relevant State entities.

C. Measuring results of technical cooperation, and the response of the Office of the High Commissioner

42. At its most recent sessions in Geneva and particularly in the field, the Board witnessed how OHCHR has now in practice moved to measuring impact at the State level and to monitoring programme implementation through the full use of the performance monitoring system by all its presences and all structures at Headquarters. The utility of the system has been further proven in 2015 during the programme review conducted in the context of the Office's efforts to address its difficult financial situation. Board members are very encouraged by the impressive results that the increased, systematic and better use of the system is helping to achieve.

43. During its sessions in the field in 2015, the Board has been able to observe in particular how the system, which interlinks planning, monitoring, the production of reports and sharing experiences, allows the Office to monitor the implementation of its programmes in real time and to make the adjustments necessary to ensure the achievement of the defined results. The Board also finds it encouraging that field presences increasingly use the system to identify examples of good practices to use when designing their own programmes.

44. The Board commends OHCHR for its efforts to ensure the full functioning and use of the system by all its planning entities. It believes that the next challenges for OHCHR are to improve the production of reports by upgrading the capacity of staff to upload accurate and relevant information; and to further improve use of the system by senior managers in their daily work and decision-making. Although the upgrades implemented in recent years, including the financial module, are assessed very favourably by the Board, there is a need to develop them further and to align them with other administrative and financial tracking

systems of the Office. The Board encourages the United Nations Secretariat to ensure that the transition of OHCHR to the new Umoja resource planning system will not have a negative impact on the achievements of the performance monitoring system, but will rather strengthen it further.

D. Guidance tools on technical cooperation

45. As one of the vehicles used by OHCHR to fulfil the mandate of the High Commissioner, technical cooperation continues to be an effective means for overcoming gaps in-country knowledge and capacity, and for supporting efforts made by the country to address them. For technical cooperation programmes to be effective, they need to be based on a comprehensive situation analysis and a thorough assessment of capacity and other critical shortfalls. The efforts and increased guidance of the Office towards strengthening its planning and programming guidance tools (in particular in preparation of the organizational management plan for the period 2014-2017) have further developed its capacities to respond better to the needs identified and the requests for technical and advisory services on the ground by, for example, developing further the process of consultation with main stakeholders.

46. OHCHR has continued to develop and provide specific reference tools relevant to technical cooperation in order to guide its field presences and staff on the approach of OHCHR to technical cooperation and to ensure access to updated OHCHR policies, practices and procedures relating to technical cooperation and results-based management.

47. The Board found the efforts of the Office to use the gains and experiences reflected in a study on the protection impact of United Nations human rights field presences[1] particularly relevant to strengthening the capacities of the staff of the Office in its field presences through follow-up training and seminars. In all its visits, the Board has observed with satisfaction the recognition by State entities, national human rights institutions and civil society organizations of the engagement efforts of the Office and its staff, and its ability to maintain trust while being able to discuss difficult issues frankly, building on its observance and monitoring work, and to adapt to changing environments without losing focus. The OHCHR office in Mexico, for example, which receives support from the Fund, has benefited from these capacity-building efforts. The Board welcomes the plans of the Office to continue to strengthen capacities on the ground, building on these useful experiences and lessons learned.

48. The Voluntary Fund has traditionally provided support for the deployment of human rights advisers to United Nations Resident Coordinators and country teams. Since 2012, all deployments are operated under a new framework formulated by the United Nations Development Group and supported by a dedicated multi-donor trust fund For this reason, human rights advisers deployed prior to the endorsement of the framework in 2012 policy (and therefore supported financially by the Voluntary Fund) work alongside advisers by the above- mentioned multi-donor trust fund. The Board has commended the Office for its efforts to align all deployments, regardless of the source of funding, with the mentioned policy. It also welcomes recent initiatives aimed at strengthening the results-based management capacities of human rights advisers. As the number of deployments has increased in response to growing demand, such initiatives as the global workshop for human rights advisers, held in Geneva from 30 June to 4 July 2014 and aimed at

[1] Liam Mahony and Roger Nash, *Influence on the Ground: Understanding and Strengthening the Protection Impact of United Nations Human Rights Field Presences* (Brewster, Massachusetts, Fieldview Solutions, 2012).

strengthening the capacity of all human rights advisers through the sharing of experiences and practices, are most welcome.

49. The Board encourages OHCHR to continue to develop this type of initiative for all types of field presences receiving support from the Voluntary Fund for Technical Cooperation, to complete the manual on technical cooperation, and to update it regularly.

E. Main findings, challenges identified and recommendations

50. During its visits to OHCHR field presences, the thematically focused sessions in Geneva, the follow-up engagement and advice on the implementation of the thematic strategies within the programming cycle 2014-2017 and the increasing number of opportunities to observe the complementarities of the support through the two funds, the Board has broadened its overview of the programmes of the Office, its technical cooperation components and the connections with other work of the Office and of other United Nations programmes. This has substantially expanded the opportunities for strategic and policy advice on the technical cooperation components of the support provided by OHCHR.

51. Through its discussions with all partners on the ground, the Board has been able to confirm its view that the often artificial separation between the various types of work that OHCHR undertakes to support States in their responsibility to ensure fulfilment of human rights for all does not always reflect the reality of needs and requests on the ground. Another important role played by the Office is that of guiding, through technical cooperation and advisory services, not only States and other national stakeholders but also other parts of the United Nations family on ways to ensure the promotion and protection of human rights in their programmes. These elements should be taken into account to fully understand the term "technical cooperation" in the field of human rights, to be provided by OHCHR in full accordance with the mandate of the High Commissioner. The Board very much hopes that its views regarding the components of effective technical cooperation will help to further a common understanding, bridging the gap between what external audiences often expect and understand by technical cooperation and what the Office and the United Nations in general can do to provide at the current times and within their respective mandates.

52. The Board is impressed by the innovative approaches and the large number of good practices and lessons learned across the Office that could further strengthen the programme of the Office and indeed of other United Nations agencies, if adequately and timely shared within regions and across regions. While understanding the lack of resources and the challenges on the ground for many members of the United Nations family, the Board has been particularly encouraged by the commitments and the capacity of OHCHR staff on the ground to confront challenges and to develop innovative solutions and proposals. Over the past five years, the Board has noted an increased effort by the Office to promote the sharing of good practices in the context of its planning exercise and through important internal mechanisms, such as the annual meeting of heads of field presences, in Geneva. This practice is most welcome and should be further strengthened, and the tools for sharing experiences further developed.

53. The Board stresses the importance of continuing to strengthen the capacities and abilities of the staff of OHCHR, particularly of those working in the field. The Board would recommend that the guidance issued on resource mobilization at the field level be accompanied also by a strengthened capacity-building programme for those engaged in fundraising at the local level to ensure that the efforts made yield the expected results.

54. The Secretariat should support OHCHR to put in place adequate mechanisms for career development, taking into account the sometimes extremely difficult circumstances in which staff operate, in particular in crisis situations. The new measures taken by the Secretariat to ensure mobility of OHCHR and other United Nations staff members between duty stations are most welcome. The Board would like to ensure that these measures do not weaken but rather strengthen and support the years of investment in building robust human rights expertise in the staff of the United Nations. This would be critical for the Office's capacity to effectively meet the increasing requests from Member States for technical cooperation.

IV. Status of funding and donors

55. At its meetings in October 2014 and February 2015, the Board was updated on the overall financial status of OHCHR and its donors, the financial situation ofr 2014 of the Voluntary Fund for Technical Cooperation in the Field of Human Rights and its functioning in the overall funding system, including interlinkages with other extrabudgetary resources, and the funding projections and proposed work plan for the Fund for 2015. Expenditures under the Fund had again increased throughout 2014 without being matched by financial contributions, a situation that the Board brings constantly to the attention of the Human Rights Council in its annual updates.

56. In 2014, the total expenditure of the Voluntary Fund for Technical Cooperation in the Field of Human Rights amounted to $20.2 million. The Fund received a total of $17.7 million in voluntary contributions, of which $9.7 million were earmarked and $8 million were allocated to the Fund from unearmarked contributions to OHCHR. The resulting deficit of $2.5 million at the end of 2014 was covered from other existing reserves. During this period, the Fund continued to provide resources for technical cooperation to build strong human rights frameworks at the national level in 30 regions, States and territories. This included support for 16 human rights advisers (in Chad, Ecuador, Honduras, Kenya, Madagascar, the Niger, Papua New Guinea, Paraguay, Maldives, the Republic of Moldova, the Russian Federation, Rwanda, South Caucasus (Georgia), Sri Lanka, Timor-Leste and Ukraine); eight human rights components of peace missions (in Afghanistan, Côte d'Ivoire, Darfur (Sudan), Guinea-Bissau, Haiti, Liberia, Libya and Somalia) and six country/stand-alone offices (Bolivia (Plurinational State of), Kosovo,[4] Mauritania, Mexico, Togo and the State of Palestine). Details of contributions and programmes are provided in the annual report of OHCHR for 2014.

57. Through the Fund, the Office has facilitated efforts made at the country level to incorporate international human rights standards into national laws, policies and practices, and contributed to the establishment and strengthening of national capacities to adhere to these standards. Strengthening the administration of justice and increasing capacities to promote gender equality and women's rights have also been the focus of numerous programmes receiving support from the Fund. Through the newly established thematic priority on widening democratic space, greater engagement on the establishment and functioning of responsive national human rights institutions and on human rights education programmes have been facilitated. United Nations Resident Coordinators and country teams have also seen their human rights capacity strengthened by the continuing deployment of human rights advisers. Detailed information on income and expenditure

[4] Reference to Kosovo should be understood in full compliance with Security Council resolution 1244 (1999) and without prejudice to the status of Kosovo.

under the Voluntary Fund, its financial status in 2014 and a list of donors and contributors are annexed to the present report (see annexes I – IV).

58. In its sessions and meetings with OHCHR and Member States, the Board continues to underline the importance of ensuring sustainable increased contributions to OHCHR and to the Fund, and reiterates its view that an increase in unearmarked funds will allow OHCHR to be more flexible in implementing identified priorities and to better respond to increasing needs.

Annex I

[English only]

Voluntary Fund cost plan and expenditures: 2013

OHCHR EXTRABUDGETARY RESOURCES *(31 December 2013)*

Voluntary Fund for Technical Cooperation - Status of cost plan and expenditure for 2013

IMIS Project Number	V. F. for Technical Cooperation (AHA) Field Operations & Technical Cooperation Division	Number of staff	Cost plan 2013 (USD) Staff costs	Activities	Total	Expenditure Total USD $
	(a) Human Rights Advisers in UNCT (17):					
	Activities implemented by OHCHR HRAs in the UNCT in:					
B-414	Russian Federation	6	572,379	715,742	1,286,121	1,056,853
B-409	South Caucasus, Georgia	3	810,277	308,899	898,176	711,233
B-304	Moldova	2	244,000	109,418	353,418	347,564
B-341	Ukraine	1	199,410	97,167	296,577	225,636
B-441	Rwanda	3	534,854	112,023	646,857	538,437
B-488	Kenya	3	444,927	395,585	840,512	817,483
B-503	Niger	2	362,940	68,199	431,139	390,006
B-584	Chad	3	559,921	128,874	688,795	308,655
B-539	Madagascar	3	240,586	124,849	365,435	320,084
B-436	Ecuador	3	375,340	205,262	580,602	531,583
B-351	Paraguay	4	526,927	231,808	758,735	724,485
B-532	Honduras (cost-sharing with UNDP)	5		222,244	222,244	239,358
B-502	Papua New Guinea	5	405,310	156,500	562,060	227,132
B-439	Sri Lanka	3	249,179	197,480	446,659	389,120
B-630	Maldives	1	33,258	86,835	120,093	45,082
B-652	Timor Leste	3	83,959	251,479	335,438	188,699
B-617	Malawi	1	105,375	75,482	180,857	
	sub-total HR Advisers	*51*	*5,330,600*	*3,402,894*	*8,733,498*	*7,041,208*
	(b) Human Rights Components of UN Peace Missions (10)					
	Activities implemented by UN Peace Missions' Human Rights Units in:					
B-443	Haiti			140,678	140,678	113,594
B-421	Afghanistan	2	167,085	285,717	452,802	430,288
B-642	Afghanistan - Afghan people dialogue on Peace (Belgium)			170,147	170,147	170,000
B-447	Cote d'Ivoire			166,110	166,110	125,897
B-444	Liberia			101,361	101,361	100,965
B-451	Sierra Leone	11	393,446	303,511	696,997	692,264
B-451	Somalia	4	379,497	153,538	533,035	494,531
B-633	Somalia - activities funded by Austria, ADA	2	127,191	29,194	156,385	99,378
B-478	Darfur, Sudan (activities funded by Switzerland)			28,250	28,250	11,009
B-445	South Sudan			484,092	484,092	457,004
B-482	Guinea Bissau			70,625	70,625	58,472
B-583	Central African Republic			31,778	31,778	22,600
B-611	Libya			191,377	191,377	51,022
	sub-total Peace Missions	*19*	*1,067,217*	*2,136,380*	*3,203,597*	*2,806,825*
	(c) Country /Standalone Offices (6)					
B-305	Mauritania	9	780,631	535,413	1,316,044	1,225,894
B-418	Togo	10	916,294	581,376	1,497,670	1,452,893
B-404	State of Palestine	22	2,287,903	729,623	3,017,526	2,933,957
B-633	East Jerusalem, public information and legal analysis (funded by Switzerland)	4	542,400	94,242	636,642	231,057
B-419	Bolivia	11	1,022,563	260,751	1,283,314	1,213,672
B-627	Bolivia - Addressing socio-political conflict project (EU funding)	0		504,270	504,270	413,030
B-401	Mexico	24	2,006,742	413,778	2,420,520	2,345,679
B-420	Kosovo (standalone office)	9	758,169	113,974	872,143	733,421
	sub-total Country /Standalone Offices	*89*	*8,314,702*	*3,233,427*	*11,548,129*	*10,549,605*
	Adjustment related to 2012 prior-year expenditure (liquidation of obligation)					*(167,018)*
	Sub-Total	*159*	14,712,519	8,772,705	23,485,224	20,296,620
	Total (including 13% PSC)			23,485,224		87%

Annex II

[English only]

Voluntary Fund cost plan and expenditures: 2014

OHCHR EXTRABUDGETARY RESOURCES *(31 December 2014)*

Voluntary Fund for Technical Cooperation - Status of cost plan for 2014

IMIS Project Number	V. F. for Technical Cooperation (AHA)		Cost plan 2014 (USD)			Expenditure
	Field Operations & Technical Cooperation Division	Number of staff	Staff costs	Activities	Total	Total USD
	(a) Human Rights Advisers in UNCT (16) *					
P.414	Russian Federation	6	586,125	646,143	1,232,268	1,134,234
P.469	South Caucasus, Georgia	7	538,282	315,585	853,867	728,996
P.454	Moldova	2	248,998	92,354	341,352	336,303
P.541	Kosovo	1	200,512	38,817	239,329	284,685
P.441	Rwanda	3	312,804	107,463	420,267	379,595
P.185	Kenya	5	507,128	341,652	848,780	792,938
P.505	Niger	2	307,282	61,374	428,656	271,559
P.584	Chad	3	287,664	132,497	420,161	388,026
P.537	Madagascar	3	228,210	169,388	397,598	290,047
P.456	Colombia	3	366,233	195,917	562,348	468,925
P.551	Philippines	3	357,112	228,003	585,115	591,083
P.552	Honduras - co-sharing with UNAIDS	3	213,882	7,944	221,826	202,565
P.572	Papua New Guinea	3	415,798	244,894	660,692	570,357
P.439	Sri Lanka	3	263,475	225,781	489,256	472,286
P.616	Maldives	1	34,490	23,278	57,768	48,389
P.642	Timor Leste	3	98,814	237,598	336,412	257,642
	sub-total HR Advisers	*61*	*5,026,807*	*3,068,688*	*8,095,498*	*7,217,630*
	(b) Human Rights Components of U.N Peace Missions (9)					
P.437	Haiti	5	348,263	180,797	528,062	437,152
P.423	Afghanistan	0		310,388	310,388	268,525
P.442	Côte D'Ivoire			167,771	167,771	166,149
P.443	Liberia			69,563	69,563	68,871
P.451	Somalia	2	310,479	141,879	452,358	330,542
P.478	Darfur, Sudan (activities funded by Switzerland)			59,325	59,325	59,325
P.753	South Sudan			137,307	137,307	61,641
P.582	Guinea Bissau			70,659	70,659	70,625
P.581	Central African Republic					
P.631	Libya			190,932	190,932	174,374
	sub-total Peace Missions	*9*	*698,744*	*1,287,621*	*1,986,365*	*1,617,204*
	(c) Country / Standalone Offices (6)					
P.305	Mauritania	9	585,772	710,481	1,475,253	1,260,950
P.418	Togo	10	1,130,756	519,565	1,650,321	1,572,851
P.404	State of Palestine	22	2,454,856	818,053	3,272,909	3,250,270
P.635	Fact Sensheets, public information and legal analysis - funded by Switzerland	4	539,615	14,464	554,079	379,278
P.425	Bolivia	11	1,188,223	271,233	1,459,456	1,369,044
P.625	Bolivia - Addressing socio-political conflict project (EU funding)	0		388,382	388,382	351,832
P.461	Mexico	24	2,124,975	424,814	2,549,789	2,399,665
P.420	Guatemala (standalone office)	9	797,256	104,911	902,141	762,996
	sub-total Country / Standalone Offices	*89*	*8,991,421*	*3,260,909*	*12,252,330*	*11,346,886*
	Sub-Total	145	14,716,972	7,617,218	22,334,190	20,201,720
	Total (including 13% PSC)		22,334,190			90%

* In addition, six Human Rights Advisers are being funded in 2014 by contributions received from MPTF/UNDG under the OHCHR-owned fund (HCA).
In a joint standard budget of US$ 10,000,000 (12 HRAs in Jamaica, Dominican Republic, Bangladesh, Timor Leste, Maldives, Tanzania, Zambia, Sierra Leone, Nigeria, Malawi, the Philippines, and 2 Regional Advisers in Panama and Bangkok)

Annex III

[English only]

Financial status of the Voluntary Fund: 2014

Office of the High Commissioner for Human Rights
United Nations Voluntary Fund
for Technical Cooperation (AHA)

Statement of Income and Expenditure
for the period 1 January - 31 December 2014 (preliminary closing)

			USD
I. Income			
Voluntary contributions in 2014			17,729,934.33
Miscellaneous and interest income			322,136.28
Total income			**18,052,070.61**
II. Expenditure */	**Budget 2014 USD**	**Allotments USD**	**USD**
Staff costs	13,023,869	12,090,852	11,805,738.70
Consultants' fees and travel		608,843	538,645.49
Travel of representatives		69,181	67,872.00
Travel of Staff		677,116	631,606.70
Contractual Services		573,206	552,388.41
General operating expenses		1,533,627	1,515,358.74
Supplies & Materials	Non staff costs	475,408	425,646.27
Grants, contributons and seminars	6,760,175	2,420,646	2,362,350.71
Programme Support Costs	2,550,146	2,378,625	2,302,113.22
	22,334,190	**20,827,504**	
Total expenditure		**90.5%**	**20,201,720.24**
Net excess/(shortfall) of income over expenditures for the period			**(2,149,649.63)**
Opening Balance 1.01.2014			**13,437,027.70**
Miscellaneous adjustments/savings/refunds to donors			**1,856,661.89**
Loss on exchange			**(159,451.97)**
Total fund balance as at 31.12.2014			**12,984,587.99**

**/ Includes disbursements and obligations*

Estimated Net funds to be made available for activities in 2015	10,144,209.00
PSC (13%)	1,318,747.00
Operating reserve (15%)	1,521,631.00
Total funds available for 2015 (with PSC & Op. reserve)	**12,984,587.00**

Annex IV

[English only]

List of donors and contributors

Voluntary Fund for Technical Cooperation (VFTC) Voluntary contributions in 2014* (as at 31 December)	
Australia AUSAid (Timor Leste)	87,260
Belgium (Côte d'Ivoire)	133,690
Estonia (Ukraine)	37,360
European Union (strengthening the Judiciary in Bolivia)	279,167
European Union (unearmarked allocation by OHCHR)	1,251,565
Finland	1,001,252
France (Mauritania)	68,776
Germany	1,753,513
Germany (OPT)	797,500
Germany (Ukraine)	622,665
India	100,000
Japan	150,000
Kuwait	50,000
Liechtenstein	41,451
Lithuania (Ukraine)	24,783
Netherlands (Ukraine)	100,000
Norway (unearmarked allocation by OHCHR)	3,336,670
Organisation Internationale de la Francophonie (CAF)	47,554
Poland (Ukraine)	48,211
Portugal	100,000
Russia	350,000
Sweden (unearmarked allocation by OHCHR)	3,082,614
Sweden (Kenya)	540,833
Switzerland (OPT Office in East Jerusalem) - Pledge	550,000
Switzerland (CHF 1.5 million)	1,578,947
Switzerland (Ukraine)	200,000
Turkey (Ukraine)	50,000
UNDP Moldova	9,000
USAID Mexico	87,124
United States of America	1,250,000
TOTAL	17,729,934

* Include funds earmarked by donors to the VFTC and/or to OHCHR activities financed through the VFTC, as well as unearmarked funds allocated to the VFTC by OHCHR.

United Nations A/HRC/29/49

General Assembly

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Human Rights Council
Twenty-ninth session
Agenda item 10
Technical assistance and capacity-building

Report of the Independent Expert on capacity-building and technical cooperation with Côte d'Ivoire in the field of human rights, Mohammed Ayat*

Summary

In this document, which covers the period from 1 December 2014 to 31 March 2015, the Independent Expert reports on his first visit to Côte d'Ivoire, from 12 to 21 January 2015. He welcomes the progress made by the Government in terms of respect for and protection of human rights, particularly its efforts to set the country's economy back on the path of sustainable development and the establishment of bodies such as the National Human Rights Institute, the Dialogue, Truth and Reconciliation Commission, the victims' reparation fund and the National Programme for Social Cohesion.

The Independent Expert also commends the Government's efforts to build capacity in the justice system, including through renovation of the courts and the ongoing legislative reforms, notably of the Criminal Code, the Code of Criminal Procedure, the Civil Code and the Code of Civil Procedure. He welcomes the reopening of the assize courts after many years, which should in theory make it possible to bring cases for serious offences against and violations of human rights and international humanitarian law and to help combat the culture of impunity.

The case currently before the assize courts against 83 persons, including Simone Gbagbo, is a good start towards combatting the impunity that reigned for nearly two decades. However, the Independent Expert points out that the proceedings still concern a restricted period, that of the electoral crisis in 2010, despite the fact that serious violations of human rights and international humanitarian law had been committed for more than a decade before then.

The Independent Expert also emphasizes that the charges concern acts prejudicial to State security. There is still impunity for the perpetrators of serious violations of human

* Late submission

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rights and international humanitarian law. Lastly, the charges still focus on just one party to the fighting, although the reports of both the international commission and a national commission indicated that both parties committed acts of violence that could constitute international crimes. The Independent Expert states that equitable justice is a necessary passage towards breaking the vicious circle of violence.

The Independent Expert recognizes that this path must be embarked on with caution to avoid destroying the hard-won but fragile progress that has been made in security and economic development, which benefits all Ivorians. However, he finds it clear that no achievement can be sustained if it is not endorsed by justice. In that regard, the Independent Expert is pleased to note that almost all those with whom he discussed the issue, particularly Ivorians, agreed that justice must be impartial and equitable. It remains for that conviction to be put fully into practice.

The Independent Expert makes a number of recommendations intended to improve detention conditions in prisons and to strengthen measures taken to combat impunity and the legal framework for the protection of human rights in the country. He calls on the international community to provide staunch support for Côte d'Ivoire on its path towards reconstruction.

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I. Introduction

1. The present report, covering the period from 1 December 2014 to 31 March 2015, is submitted pursuant to resolution 26/32 of the Human Rights Council, adopted on 27 June 2014, in which the Council decided to establish a new mandate on capacity-building and technical cooperation with Côte d'Ivoire in the field of human rights, to follow on from the previous mandate, for a renewable period of one year, and requested the Independent Expert to submit a report at its twenty-eighth session and his final recommendations at its twenty-ninth session.

2. The Independent Expert's first visit to Côte d'Ivoire took place from 12 to 21 January 2015. He was received by Alassane Ouattara, the President of Côte d'Ivoire, the Prime Minister, the Minister for Foreign Affairs, the Minister of the Interior and Security, the Minister for Employment, Social Affairs and Vocational Training, the Minister of Justice, Human Rights and Public Freedoms, the Minister of Higher Education and Scientific Research, the Minister of National Education and Technical Education and other senior civilian and military authorities.

3. The Independent Expert met with the Prosecutor-General at the Court of Appeals of Abidjan, the Public Prosecutor at the Court of First Instance of Abidjan, the Chief of General Staff of the Armed Forces, the chairperson of the National Human Rights Commission, the Ombudsman, the chairperson of the National Electoral Commission and the former chairperson of the Dialogue, Truth and Reconciliation Commission. The Independent Expert visited detention centres in Abidjan. He also met with the leaders of the majority and opposition political parties, religious leaders, traditional chiefs, human rights non-governmental organizations (NGOs), the diplomatic corps and United Nations bodies.

4. The Independent Expert wishes to thank the Ivorian authorities for facilitating the effective completion of the mission and for being so open to dialogue. He would also like to thank all those who provided him with useful information on the human rights situation in Côte d'Ivoire. He would furthermore like to commend the excellent work done by Mr. Doudou Diène, the previous Independent Expert.

5. The Independent Expert wishes to thank the officials of the United Nations Operation in Côte d'Ivoire (UNOCI) and the staff of the Human Rights Division of UNOCI for their technical and logistical support, which ensured the smooth running of his mission to Côte d'Ivoire.

II. General situation in the country

A. Institutional framework

6. Côte d'Ivoire has a presidential system of government (Constitution of 23 July 2000). The President is elected by universal suffrage in a two-round election for a five-year term renewable only once. The President holds executive power. He appoints the Prime Minister — the head of Government — who is answerable to him. Côte d'Ivoire has a single-chamber Parliament (Constitution, art. 58). The Parliament adopts legislation, including in relation to the fundamental freedoms of citizens.

7. The Ivorian Constitution establishes the principle of the independence of the judiciary from the other branches of government. The President of the Republic is the guarantor of the independence of the judiciary. He presides over the Supreme Council of Justice.

8. In its preamble, the Constitution proclaims the country's commitment to human rights and fundamental freedoms and to democratic values. An extensive chapter of the Constitution is devoted to the recognition of human rights (arts. 1 to 22), focusing in particular on equality before the law (art. 2) and providing for the guarantees of a fair trial (arts. 20 to 22).

9. International agreements that have been regularly adopted by Côte d'Ivoire prevail over domestic laws. The Independent Expert notes with satisfaction that Côte d'Ivoire has ratified seven of the nine international human rights instruments that form the backbone of the broader international human rights framework. It has ratified the first Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Côte d'Ivoire still needs to ratify other important conventions and protocols in order to consolidate the progress already made in the adoption of international human rights instruments.

B. Political context

10. In the 1960s and 1970s, Côte d'Ivoire enjoyed resounding economic success, which attracted many immigrants from neighbouring countries. In 1998, approximately 26 per cent of the population of Côte d'Ivoire was made up of non-nationals. In the 1990s, a number of factors, including the introduction of a multiparty system and the economic crisis caused by the fall in coffee and cocoa prices, began to exacerbate xenophobic tension. This tension centred around the concept of "ivoirité", underlined in article 35 of the Constitution.

11. Since then, the country's history has been punctuated by violent events, starting with the overthrow of President Henri Konan Bédié in a military coup on 24 December 1999 and followed by an armed conflict that virtually split the country into two opposing parties: the north, more or less controlled by the rebels, and the south, which remained in the hands of supporters of President Laurent Gbagbo. The violent conflicts that have arisen in Côte d'Ivoire since the late 1990s have primarily been related to elections. The most recent electoral crisis was in 2010.

12. In the second round of the presidential elections in November 2010, Alassane Ouattara was declared the winner by the Independent Electoral Commission. This result was certified by the United Nations and accepted by the African Union. On the same day, the Constitutional Council had announced the victory of Laurent Gbagbo. The two men both took an oath of office and a wave of violence broke out. According to UNOCI estimates, 3,000 persons lost their lives and there were thousands of injured and displaced persons and refugees (there are still some 300,000 displaced persons and over 50,000 refugees, mostly in Liberia).

13. The situation began to ease following the arrest of Laurent Gbagbo and his transfer to the International Criminal Court. Alassane Ouattara was inaugurated as President on 21 May 2011. Since then, the country has been trying, with the support of the international community, to restore peace and social cohesion and regain its momentum towards economic development. This arduous work, which is still ongoing, has resulted in tangible and commendable progress.

14. The next presidential elections are scheduled for October and November 2015. However, for more than a decade, election periods have given rise to violent disturbances. All national and international stakeholders concerned with the human rights situation in the country must therefore be vigilant. This need for vigilance makes the Independent Expert's obligation of objectivity more imperative than ever and also means that he must be very

circumspect and measured in what he says, in order to effectively support the country in its journey towards stability and the consolidation of social peace and greater respect for human rights.

C. Security situation

15. Peace is the foundation necessary for economic and human development and the promotion of all categories of human rights. The Government of Côte d'Ivoire, with the assistance of its international partners, is trying to establish lasting peace in the country. As a result, there has been a remarkable improvement in security, which the Independent Expert wishes to acknowledge, although it remains fragile.

16. In Abidjan, there are no longer illegal roadblocks or hold-ups organized by uncontrolled forces. Elsewhere, particularly in the west, north and sometimes centre of the country, the phenomenon of highway robbery still persists. The competent UNOCI units record some 14 such incidents per month. There is also crime due, among other factors, to the legacy of the long period of civil war, especially the economic difficulties it has created for vulnerable population groups.

17. Some of this crime is committed by children in conflict with the law, often living in precarious conditions with a poor family environment or no family environment at all. These children are commonly referred to as "germs" (*microbes*), a term frequently used by Ivorians in their everyday speech and in the media. The Independent Expert would like to draw attention to the fact that this is a term that carries a strong stigma and is likely to entrench juvenile offenders in their deviant behaviour. He therefore urges the Ivorian authorities, the Ivorian media and Ivorian civil society to completely eliminate this highly degrading term, which is used to describe some children in conflict with the law, from their vocabulary. It should also be mentioned that these children and children in general are victims of crime, including sexual abuse. The alarming phenomenon of child abduction is common. Indeed, the Ivorian authorities have strongly condemned the practice and pledged to combat it through appropriate preventive and punitive measures.

18. However, in terms of security, the risks of instability have not been entirely eliminated. The Akouédo military camp in Abidjan was attacked on the night of 17–18 September 2014. The attack resulted in the deaths of four members of the Forces Républicaines de Côte d'Ivoire (FRCI) and an attacker and injured several people, including two UNOCI soldiers. Similarly, during the night of 9–10 January 2015, the Grabo region was the scene of an attack by an armed commando in which three persons were killed – two members of the FRCI and an assailant. The attack also led to the displacement of more than 1,000 people.

19. The continued security risks in Côte d'Ivoire must be seen in the particular context of the long period of violent disturbances that has only just abated, together with the upcoming elections. The situation is thus linked to specific factors that require an appropriate response. These factors include the difficulty in monitoring some geographical areas, such as the porous border area in the north of the country and the many huge forest areas.

20. In addition, the Dozo (a heterogeneous group of traditional hunters) and "comzones" (former zone commanders) still have some influence in a few localities outside the capital. Furthermore, some of the ex-combatants are still in possession of firearms, while they wait for the ongoing disarmament process to reach them. The authority responsible for the disarmament, demobilization and reintegration of ex-combatants has identified 76,000 former combatants.

21. To date, more than 46,000 persons have been effectively disarmed, with some 30,000 remaining. The Government plans to finalize the whole disarmament operation by about June 2015, which should contribute to the efforts to ensure a calm atmosphere ahead of the next presidential elections and a climate conducive to sustainable economic and social progress. The international community is actively helping to implement the disarmament programme and should continue to support it through to its conclusion.

22. Social protest movements can sometimes have significant potential to destabilize. However, social demands have almost invariably been followed by a dialogue in order to avoid escalation. The Ivorian authorities clearly have the will to maintain an adequate level of security and social peace. The anger of some elements of the Armed Forces who demonstrated in Abidjan on 18 November 2014 was quickly calmed by the Government, which reacted promptly and promised to meet their demands. The same is true of a recent strike begun by prison guards. However, the dialogue with striking university teachers continues, with a serious risk of the students not being able to take their examinations this year.

D. Economic and social situation

23. A thriving economy can provide fertile ground for human rights to flourish. The economic growth rate in Côte d'Ivoire was in double figures in 2012 (10.5 per cent) and 8.5 per cent in 2014. Other indicators also point to the country's reinvigorated economy. These include the new investments in infrastructure, the return of the African Development Bank, the resumption of long-haul flights connecting the capital with Europe, the improved business climate reflected by international agencies and the establishment of a commercial court. Another symbolic and timely event that raised hopes was the crowning of the Côte d'Ivoire football team as champions of the Africa Cup of Nations on 8 February 2015.

24. The Independent Expert commends the Ivorian Government on the economic progress it is in the process of achieving, while encouraging it to strengthen efforts to ensure that this progress benefits all segments of the population living in Côte d'Ivoire, firstly, because the impact of economic progress is only felt by the most disadvantaged groups after a relatively long time and, secondly, because enlightened social policy is part of a good economic recovery and should be pursued in tandem with it.

25. In addition, there are emergency situations that need to be addressed quickly. Indeed, Côte d'Ivoire is ranked 171st of a total of 187 countries in terms of human development.[1] This means that there are still many people in need in Côte d'Ivoire. One in every two Ivorians lives below the poverty line. The Government is well aware that this situation could have a negative impact on social and political stability and has taken or is taking steps to meet the needs of the most disadvantaged groups.

26. In this regard, a national social protection strategy was adopted in 2013 (with action plans in progress). One of the achievements under the strategy was the introduction of universal social security coverage to make health care more accessible to the entire population. Furthermore, a bill is being prepared to make education free and compulsory until the age of 16. This is extremely important given that, according to statistics from the United Nations Educational, Scientific and Cultural Organization (UNESCO), one in two children has never attended school and is likely to be illiterate.

[1] United Nations Development Programme, Human Development Report 2014, Sustaining Human Progress: Reducing Vulnerabilities and Building Resilience, New York, 2014, table 1, Human Development Index and its components, pp.180–183, on p. 182.

27. In addition, a reform of the cocoa marketing chain has directly benefited approximately 1 million farmers. Capacity-building projects for small and medium-sized enterprises are under way, aimed, inter alia, at reducing the size of the informal sector and combating unemployment.

28. The past two decades, marked by conflicts, the exacerbation of inter-ethnic tension and violence, have seriously weakened social cohesion in Côte d'Ivoire. The wounds inflicted must be healed and that will take time. The process is already under way and must continue without interruption.

29. Several institutions have been set up to help, directly or indirectly, to mend and protect the social fabric. These include the Dialogue, Truth and Reconciliation Commission, the National Programme for Social Cohesion, the Ombudsman and the National Human Rights Institution. They are discussed later in this report, but first the Independent Expert would like to highlight, with both emotion and particular interest, a point that is clear from most of the statements made by the Ivorian people with whom he spoke. In short, but very revealingly, Ivorians are tired of the violence and endless disputes of politicians. They want to live, here and now, a normal life in which they can flourish without constraint and support their children to do the same.

30. The ordinary people of Côte d'Ivoire are eager for peace and development and want their human rights to be respected. For those born in the 1950s, the "golden era" is not so long ago. It is an ever-present part of their past, and they often talk about it nostalgically to younger people, which is inspiring for everyone and offers them great hope.

III. Human rights situation

A. Civil and political rights

31. During the period covered by this report, the Independent Expert received information, particularly from United Nations agencies, concerning violations of the rights to physical integrity, including acts of torture and inhuman and degrading treatment, arbitrary arrest and detention, sexual violence and violations of freedom of expression. In December 2014, UNOCI documented two cases of human rights violations committed by members of FRCI: one case of arbitrary arrest and detention and one case of torture and cruel, inhuman and degrading treatment. In December 2014, nine cases of rape were also recorded, most of them committed by civilians.

32. In January 2015, the decline in the number of human rights violations committed by FRCI registered in December 2014 continued. However, UNOCI noted the arbitrary arrest and detention of two men in a military camp. The number of victims of sexual violence remained stable, with 10 cases of rape. Eight suspects were arrested and three of them were sentenced to between 3 and 5 years' imprisonment for indecent assault.

33. In February 2015, the Human Rights Division of UNOCI documented 22 cases of human rights violations, which marked an increase compared to December 2014 and January 2015. Twelve cases of human rights violations committed by FRCI soldiers were recorded, including arbitrary arrests and detentions and inhuman and degrading treatment. The number of victims of rape also increased in February 2015, with 16 registered victims, 15 of whom were minors. In two cases, the alleged perpetrators were government officials, one a teacher and the other a health worker.

34. On 12 February 2015, the Toumodi court of first instance sentenced a person for indecent assault in a rape case. The Independent Expert notes with concern that rape is

often prosecuted as indecent assault before the criminal courts, which underestimates the seriousness of this crime for the victims.

B. Economic, social and cultural rights

35. Côte d'Ivoire has a population of 20.8 million people, more than 50 per cent of whom are under 24 years of age. This demographic profile poses major challenges to the State in the areas of education and employment and in relation to social solidarity.

36. The country's gradual economic recovery, which is well under way, could play a decisive role in the promotion of economic and sociocultural rights. Macroeconomic reforms have resulted in significant growth. In 2008, 49 per cent of the population was living below the poverty line. Per capita gross domestic product has now increased by 15 per cent. The Government plans to carry out a survey on the situation of households in March–April 2015 to assess the impact of this progress on the daily lives of all sectors of society. The Government plans to try to reduce the level of poverty by half during the current year.

37. This is clearly an ambitious goal, which will probably take longer to realize. The Ivorian authorities should continue to develop and implement strategies to reduce poverty among the population, with the assistance of international technical cooperation. Poverty reduction involves many components, but the right to education, the right to work and the right to health deserve the greatest attention.

38. The many years of unrest and violence have had a very negative impact on the continuity and quality of teaching in educational institutions. According to the findings of the United Nations Children's Fund (UNICEF), 25 per cent of school-age children are not enrolled in school. The dropout rate among those fortunate enough to have access to education is very high (36 per cent continue to baccalaureate and 36 per cent complete university). This makes it essential to carry out a comprehensive evaluation of the quality of teaching and the overall educational environment.

39. A bill is currently being drafted to make education free and compulsory until the age of 16, which normally corresponds to the end of the first cycle of secondary school. Adequate resources should be allocated to ensure that this welcome initiative is realized. It is also important to continue to upgrade school and university facilities, enhance the training of teaching staff and avoid losing academic years to university closures.

40. The problem of university residences still occupied by ex-combatants should be resolved, as it is important that students have access to a minimum of social services to enable them to focus seriously on their studies. The learning environment should be made safe and free from all forms of abuse or discrimination. The rate of pregnancy among primary and secondary school students is alarming. Solutions must be found to prevent it, including by raising awareness of the seriousness of pregnancy and taking dissuasive measures against those responsible for the pregnancies. Projects for the construction of local schools and boarding schools for girls who have to study far from their families' places of residence should be encouraged.

41. The Government has increased the guaranteed minimum interprofessional wage from 36,600 CFA to 60,000 CFA. The guaranteed agricultural minimum wage is 25,000 CFA and the Government plans to increase it soon. Dialogue is ongoing with trade unions and professional groups. As in many other developing countries, there is a large informal economy in Côte d'Ivoire and unemployment, particularly youth unemployment, is a worrying phenomenon. There are currently 160,000 students in public universities and as many in private universities, and the number of students continues to increase rapidly. However, only 43 per cent of those who obtain a university degree manage to join the

labour market. Over time, this situation could have a destabilizing effect. The Government should continue to pursue lasting solutions to the problem with the support of its international partners.

42. In addition, the Government should continue its efforts to combat child labour, especially in cocoa plantations and mines, and these efforts must be seriously supported by international partners. The subregional dimension of this problem must be incorporated into the responses that are considered. More generally, despite progress made in this area, many Ivorian children still do not enjoy all the rights recognized under the Convention on the Rights of the Child. This state of affairs was analysed by the United Nations Children's Fund (UNICEF) in 2014. Action at national level to address these shortcomings should continue with the support of international partners on the basis of the recommendations put forward in the UNICEF report and those of the National Child Protection Policy adopted in 2012.

IV. Justice and national reconciliation

43. The long years of unrest and violence have wreaked havoc on the infrastructure of the judiciary. They have also seriously diminished human resources, damaged the training and motivation of remaining staff and resulted in an increase in the number of unresolved disputes. Bearing in mind the lawlessness that usually prevails in times of armed conflict, this situation has encouraged a climate of impunity that is detrimental to the country's stability, reconciliation and social cohesion.

44. Reforming and restoring the justice system is a prerequisite to improving the human rights situation in Côte d'Ivoire. Of course, the Ivorian Government's efforts in this area must be recognized, commended and encouraged, especially since it is no easy task. International partners must also continue to support these efforts.

A. Justice: Reforms under way

45. The Ivorian authorities' efforts to reform the justice system cover a number of areas. Firstly, work is being undertaken in the area of human rights training and awareness-raising, targeted in particular at law enforcement personnel, NGOs, the media and young people. United Nations bodies support these efforts at all levels in a cross-cutting manner covering all dimensions of human rights.

46. In this regard, a promotional caravan on human rights issues organized in collaboration with UNOCI toured all the regional capitals for one week. Another audiovisual awareness-raising campaign plans to involve well-known Ivorian artists to take advantage of their public profile.

47. A second aspect relates to the fight against impunity. In this regard, the national commission of inquiry into the post-electoral crisis of 2010 submitted its report in 2012. The report should serve as a road map for the development of a balanced strategy for the judicial response to impunity. The special investigation unit (which did not have jurisdiction) was replaced by the special investigation and examination unit in order to initiate appropriate criminal prosecutions.

48. Criminal proceedings have already begun and the assize courts resumed their sessions in December 2014 after having been forced to stop for more than 10 consecutive years. In addition, despite the criticism it has faced, the work of the Dialogue, Truth and Reconciliation Commission is also aimed at combating impunity in the sense that it leads to reparations for victims.

49. The third aspect is justice reform. This involves the renovation of existing judicial facilities and the establishment of new facilities, capacity-building in human resources in terms of quantity and quality, legislative reform and setting the judicial machinery in motion again to take advantage of all this progress. To date, many courts have been refurbished and new courts have been built. A judicial academy is under construction and a number of prisons, including the Abidjan Detention and Correctional Facility and the Abidjan Military Detention Centre, have been restored as well as possible. The number of judges remains insufficient to ensure the proper administration of justice, as there are less than 700 for a population of 20.8 million. Efforts are being made, although they are hampered by a lack of resources, to recruit approximately 25 new judges per year. An inspection unit is also being set up in the Ministry.

50. The reform of the criminal justice system involves in particular the Criminal Code, the Code of Criminal Procedure, the Civil Code, the Code of Civil Procedure, the regulations governing the judiciary, the juvenile justice system and the Court of Audit. A commercial court has been established with the objective of regaining the trust of economic actors in the country's justice system. It is the first court of its kind in the region. In addition, following the ratification of the Treaty of Rome, the process of bringing domestic laws into line with the Rome Statute of the International Criminal Court has begun.

51. In this context, the death penalty has been abolished in Côte d'Ivoire. This initiative is warmly welcomed. The possibility of making the rulings of the assize courts subject to appeal and ultimately abolishing juries is also being discussed. There is also a project for the protection of witnesses and victims of crime.

52. Special attention is given to the situation of victims of sexual violence. A bill has been passed that redefines rape, provides for harsher penalties and removes the requirement that the victim produce a medical certificate before an investigation is opened into the complaint. This procedural requirement, which, although it was not provided for by law, was established as a rule by a number of criminal investigation officers, made it very difficult for victims to lodge complaints because it was unaffordable. However, sexual violence against women includes many other aspects that need to be addressed as a whole (female genital mutilation, domestic violence, pregnant students, etc.).

53. Lastly, although this list is not exhaustive, Côte d'Ivoire adopted an Act on the protection of human rights defenders on 20 June 2014. This is a significant step towards the promotion of human rights. Of course, the Government must ensure that the Act is as effective as it deserves to be, including by preparing the necessary instruments for its implementation. Civil society should also establish a sense of ownership of the Act.

54. In addition to this series of reforms, both completed and in progress, there have been capacity-building activities for legal and paralegal personnel. Training is provided to judges, prosecutors and the police, especially on human rights. These areas have often benefited, and continue to benefit, from the support of technical cooperation from several international partners. This kind of cooperation should be increased in line with the legitimate expectations of Ivorians and to the level required by the need for respect and protection of human rights.

55. Particular attention should also be paid to inquiries conducted into serious human rights violations in Côte d'Ivoire, international humanitarian law, the proceedings initiated by the assize courts, the situation of persons in pretrial detention and the condition of prisons.

B. Prosecutions: More progress should be made on some cases

56. More than a decade ago, allegations of human rights violations in Côte d'Ivoire (committed between 19 September 2002 and 15 October 2004) had already been considered in a report by an international commission of inquiry. That report came to the clear conclusion that a number of serious violations of human rights and international humanitarian law had been committed during the period in question. The report also highlighted the fact that the warring sides both had their own militia forces and it was those forces that had committed the violations.

57. More recently, violations of human rights and international humanitarian law that occurred between 31 October 2010 and 15 May 2011 were considered in a report by a national commission of inquiry established pursuant to Presidential Decree No. 2011-176 of 20 July 2011. The report indicates that serious human rights violations were committed, particularly against the right to life, the right to physical integrity and the right to security of persons. They included executions, extrajudicial disappearances, sexual violence against women and violations of international humanitarian law. The report also notes that these violations were committed by groups belonging to both warring parties.

58. The establishment of a national commission of inquiry was both a judicious and a courageous initiative seeking to uncover the truth about the violations in question. Moreover, the subsequent establishment of a Special Investigation and Examination Unit, a judicial mechanism responsible for leading the necessary criminal proceedings, demonstrates the Ivorian Government's commitment to combating impunity. The Unit must be strengthened and provided with appropriate and sufficient means to carry out its delicate and sensitive role in a professional and neutral way.

59. Furthermore, the assize courts have resumed their work in order to prosecute the perpetrators of the serious violations committed during the crises that the country has gone through. The Abidjan assize court has opened proceedings against 83 persons from the regime of the former president, Laurent Gbagbo. Among the accused is Simone Gbagbo. Most of the 83 defendants have been held in pretrial detention for some time, in some cases since 2011.

60. Given the length of the pretrial detentions, these cases should be addressed as promptly as possible but also, and above all, with complete respect for the guarantee of a fair trial. The rights of the defence should be strictly respected in accordance with the law and the international instruments ratified by Côte d'Ivoire, in particular the International Covenant on Civil and Political Rights.

61. The charges against the defendants in question concern crimes against the security of the State. They do not concern the violations of human rights or international humanitarian law that were indicated in the reports of the international and national commissions of inquiry. However, these very serious crimes must not go unpunished. The victims of these crimes are entitled to truth and justice. It should be stressed that justice should be impartial and should make no distinction between perpetrators of the violations, whatever their allegiance.

62. Equitable justice at all levels is a necessary step on the path towards breaking the vicious circle of violence. This path should certainly be embarked on with caution to avoid destroying the hard-won but fragile progress that has been made in security and economic development, which benefits all Ivorians. However it must be recognized that no achievement can be sustained if it is not endorsed by justice.

63. The Independent Expert was pleased to note that almost all those with whom he discussed the issue agreed that justice must be impartial and equitable. It remains for that conviction to be put fully into practice.

64. In addition to the case mentioned above that is currently before the Abidjan assize court, dozens of civilians and military personnel are being held in pretrial detention in connection with offences committed during the 2010 electoral crisis. They have been awaiting trial for some time. A list of names drawn up by a group of wives of the detainees arrested during the post-electoral crisis includes 441 persons, of whom 329 are civilians and 112 are military personnel. The majority are imprisoned in the Abidjan Detention and Correction Centre, while others are being held in the Abidjan Military Detention Centre or in regional prisons. Some of the detainees were arrested in 2011 and others later, between 2012 and 2014.

65. The Independent Expert would like to remind the Ivorian authorities of their obligation, under the International Covenant on Civil and Political Rights, to bring all detainees to trial as promptly as possible and to provisionally release those who do not need to be detained pending trial. In that regard, the Independent Expert welcomes the provisional release of 47 defendants, including some of the 83 standing trial in the Abidjan assize court. The unfreezing of a number of bank accounts so that their beneficiaries can use them to support themselves and their families is another commendable initiative. These measures have a calming effect on social tensions despite the fact that the judicial process is still ongoing.

66. It was noted that time limits for holding suspects in police custody prior to trial are not always respected and the relevant penalties provided by law are not applied. It is important to highlight that the length of police custody must be respected and suspects must be brought before a court within the time limit specified by law. The presence of a lawyer to assist suspects is also vital to minimize the risk of abuse.

67. An example is that of the attack on the Akouédo military camp in Abidjan on the night of 17–18 September 2014, which resulted in the deaths of four members of FRCI and one attacker and left several persons injured, including two UNOCI soldiers. Following the attack, 16 persons were arrested. Twelve of them are being held at the Abidjan Detention and Correction Centre, and the remaining four, two of whom are civilians, were detained for more than a month at a military camp in Abidjan run by an ex-comzone, before being released on 14 November 2014. It seems that their arrest and detention in locations that did not comply with international standards were not subject to judicial review.

68. Furthermore, one of these persons reported to UNOCI that he had been tortured and that traces of violence remained visible on his body. Some detainees complained about the time they spent in the National Surveillance Directorate (DST), the legality of which is contested. However, on the whole, there has been an improvement in respecting the time limits for suspects being detained on DST premises. The public prosecution service and the judges concerned must apply the law by carefully fulfilling their duties to supervise and monitor investigations and prosecutions conducted by the criminal police (Code of Criminal Procedure, art. 13).

C. Prison

69. During his mission, the Independent Expert had the opportunity to visit the Abidjan Detention and Correction Centre and the Abidjan Military Detention Centre. He also met with Ms. Gbagbo whilst she was under house arrest. The country's prisons are a clear reflection of the damage caused to infrastructure by two decades of conflict.

70. Both detention centres are overcrowded. While the Abidjan Detention and Correction Centre has a capacity of 1,500 detainees, it houses triple that number, that is, 4,561 detainees. The Abidjan Military Detention Centre, which housed 64 military detainees and one civilian, only has the capacity to hold a third of that number in relatively

decent conditions. Some convicts are serving sentences of between 5 and 20 years, but most detainees are being held in pretrial detention, some having been held since 2011.

71. The Abidjan Military Detention Centre is dilapidated and extremely run-down. It consists of two small buildings with insufficient ventilation and sunlight. In one of the buildings, bunk beds are crammed into tiny rooms and other beds are spread over the floor, blocking the corridor. The toilets and the shower are basic and detainees have to cope with daily water cuts. The electrical system is antiquated which could be a danger to detainees. However, they do have a clay courtyard where they are allowed to stretch their legs once a day. The least run-down building houses the officers.

72. Detainees in the Abidjan Military Detention Centre are given three meals per day and are allowed visits from families and lawyers twice a week. The nurse assigned to the prison comes only occasionally due to transport difficulties. In addition to the prison governor, the Abidjan Military Detention Centre has 11 guards who work night and day shifts.

73. The Independent Expert was unable to visit the buildings containing the prison cells of the Abidjan Detention and Correction Centre because he arrived at around 5 p.m., after closing time. He was able to visit the sick-bay and the library, to have discussions with the prison governor and take part in a meeting with representatives speaking on behalf of detainees in the presence of the prison governor and some guards. Out of 4,561 detainees, 1,677, or approximately one third, were being held in pretrial detention. The total number includes 59 minors who are housed in 5 shared cells. Consistent testimonies state that prison conditions are a major concern. Particular attention should be paid to this situation in order to remedy shortcomings.

74. Some detainees arrested during the post-electoral crisis of 2010–2011 had been on a hunger strike, which they had ended following a visit on Christmas Eve from Aïchatou Mindaoudou Souleymane, the Special Representative of the Secretary-General for Côte d'Ivoire. Some of those who had taken part in the strike are still very weak and their health requires close medical attention.

75. At the Abidjan Detention and Correction Centre, detainees receive two meals a day and do not cost the State more than 300 CFA francs per day. They are entitled to a weekly visit from their families. However, a visiting permit must be obtained from the judicial authorities prior to every visit. The detainees complain about the practical difficulties that their families have in obtaining a new visiting permit each time. Pretrial detention periods are long, with some detainees having been held since 2011. It is worth noting that several default judgements have been passed when detainees were not present at trial because of problems with transport. There is no doubt that the resources available to the Centre are insufficient and the equipment inadequate.

76. When the Independent Expert visited Ms. Gbagbo, she was under house arrest in acceptable conditions of imprisonment. Her lawyers had been given open permission to visit and talk with her. Two of her lawyers visited her during her meeting with the Independent Expert. They voiced their concerns over the ethnic origin of the jury that had been chosen to sit alongside the judges. They also highlighted the fact that Ms. Gbagbo's bank account had been blocked and she could no longer pay their fees. Furthermore, they claimed that approximately 100 suspects from "the opposing side" had already been summonsed by judges, but had neither presented themselves to the courts nor were being obliged to do so.

D. Dialogue, Truth and Reconciliation Commission

77. The victims of serious violations of human rights and international humanitarian law are entitled to truth, justice, reparations and non-repetition of the abuses that they have suffered. The Dialogue, Truth and Reconciliation Commission consisted of 10 national commissioners and 37 local commissions. The commissions were largely open to broad participation and included religious and traditional leaders, women, young people, representatives of civil society and of the Economic Community of West African States. The Dialogue, Truth and Reconciliation Commission had a three-year mandate.

78. The Commission's most important task was to restore and strengthen social cohesion between communities in Côte d'Ivoire. It heard 72,483 persons, including 28,064 women and 757 children. It also held public hearings, although they were not broadcast by the audiovisual media services. The final report of the Dialogue, Truth and Reconciliation Commission was submitted to the President of the Republic on 15 December 2014. It has not yet been published and it is therefore difficult to give a detailed opinion on the outcome of the Commission's work.

79. Nevertheless, the information collected by the Independent Expert was often critical of the work of the Dialogue, Truth and Reconciliation Commission. In particular, its hearings were criticized for not being accessible enough to the public. The places where the hearings were held were not sufficiently publicized and the audiovisual media did not broadcast them.

80. There is no doubt that the lack of publicity surrounding the Commission's hearings may have reduced the benefits it would have otherwise brought to victims. Although there are a few legitimate exceptions, victims generally need their grievances to be recognized publicly and the crimes that caused them to be denounced as what they were. It is thus advisable that the Commission's report be made public. The content belongs to the victims and to all Ivorians, since they have the right to be informed of the nature and extent of the criminal acts committed.

81. On receiving the Commission's report, the President of the Republic formally announced the establishment of a fund to provide reparations for victims. He allocated 10 million CFA francs to the fund for 2015 and has called upon the international community to offer its support. This initiative should be commended and encouraged because it puts the victims of the violence that has cast a shadow over the country at the heart of the debate on reconciliation. It will, of course, be necessary to define the notion of a victim, as someone legally entitled to reparations, to coordinate the list of victims compiled by the Commission with those drawn up by different government departments, to decide on the types of and modalities for reparation and to appoint an authority to be in charge of putting the initiative in place in the most efficient and transparent way. The Independent Expert calls upon the international community to offer financial and technical assistance to the fund, which is one of the pillars of lasting national reconciliation, in order to allow reparations to be awarded to the victims.

E. National Programme for Social Cohesion

82. The violence that marked the past two decades has sown discord and mistrust among the different communities in Ivorian society. It is necessary to bring back harmony and trust among Ivorians in order to build a lasting peace and restore a climate that favours human development. The National Programme for Social Cohesion was established to achieve that goal. The Programme was launched in 2012 for a renewable period of four years. It is run by a national coordination group and has regional branches. The Programme has been

assigned a budget of 7 billion CFA francs and receives support and technical cooperation from a number of United Nations bodies.

83. Above all, the Programme takes two approaches to tackling the social tensions that fuelled the crises of the past two decades. The first looks at the disagreements that emerged at the top of the political hierarchy. These were rooted in the ideology of "Ivoirité" and resulted in armed conflicts. The second approach addresses the grassroots and concerns land disputes and intercultural and ethnic tensions within the population.

84. In order to restore social cohesion, the Programme focuses on four major areas: peace, solidarity, intercultural dialogue and reconciliation. As part of the Programme, a number of actions have been taken to reinforce these values. The most important is awareness-raising. In practice, this involves carrying out actions to educate people about community spirit, tolerance and acceptance of differences. Above all, emphasis has been placed on the important role of the media in preserving peaceful coexistence among Ivorians. They have been encouraged to act responsibly and give priority to stories which promote respect for differences and constructive dialogue. The fact that 2015 is an election year means that these activities must be given particular attention.

85. In this process of appeasing tensions between communities, the Programme is an attempt to involve all those who could play a significant role in exerting social and cultural influence, such as religious and traditional leaders and human rights organizations. It is also noteworthy that the Programme continually maps out areas of tension which require close and fairly urgent monitoring. It goes on to outline the interventions that need to be made, in accordance with its means, and attempts to find sustainable solutions.

86. Côte d'Ivoire also has an Ombudsman who plays an important mediatory role between the citizens and the administration, without actually intervening in judicial disputes.

87. There is no doubt that the Programme's task of monitoring social cohesion increases the need for capacity in logistics and human resources. It must strengthen its presence across all the regions of the country in order to bring about better and lasting results. The move must be made from raising awareness on the importance of social cohesion to achieving the support of the majority of the country's population for these values and their translation into practice. It is for that reason that the Programme should be backed and strongly supported by the international community, particularly by United Nations bodies.

F. National Human Rights Commission

88. A national human rights commission was first established in 2004. In the early stages, the Commission did not comply with the Paris Principles. The legislation establishing the new national human rights institution that is currently in operation (Act No. 2012-1132) received sustained technical support from the Human Rights Division of UNOCI and now complies better with the Paris Principles. The status, the structures and the mandate of the National Human Rights Commission are proof of this commendable achievement.

89. It comprises both a national commission and regional commissions. Overall, it is participatory in nature, and this aspect should be enhanced. In its article 1, the Act gives the National Human Rights Commission legal personality as well as independence and financial autonomy. Its mandate is relatively broad, encompassing the duties to provide consultation services to the Government, to monitor the human rights situation in the country (including in particular the possibility of carrying out investigations and visiting places of detention) and to deal with the non-judicial aspects of complaints concerning violations of fundamental human rights.

90. The National Human Rights Commission advises the competent authorities on the harmonization of national law with international human rights standards and is helping to draw up the reports required by the United Nations human rights treaty bodies. In general, the Commission works together with national and international human rights entities. The Commission must submit an annual report to both the President of the Republic and all governmental institutions; it is also published.

91. The National Human Rights Commission has already considered many different areas. They include focused protection activities following complaints concerning human rights violations, advocacy for vulnerable populations, particularly those that have been forced out of shanty towns and national park forests with no prospect of being promptly rehoused, visits to prisons, on the basis of which reports are then published, with emphasis on their overcrowded and unhygienic state, meetings with political parties in order to strengthen the national dialogue with a view to ensure that the forthcoming elections take place in a peaceful atmosphere and to contribute to drawing up the universal periodic report.

92. Monthly meetings are organized with the Human Rights Division of UNOCI in order to review the human rights situation in the country. These meetings have led to the establishment of a human rights forum intended to strengthen collaboration between the National Human Rights Commission and civil society and enabled the development of a strategy on the prevention of human rights violations for 2015.

93. The conditions in which the National Human Rights Commission has to carry out its work should be improved in two respects. Firstly, its autonomy, which is clearly stipulated in the body's founding text, should be better guaranteed. The relationship between the Ministry of Justice, Human Rights and Public Freedoms and the National Human Rights Commission should be one of mutual cooperation rather than of administrative supervision. The present situation arises from the fact that the Commission's budget needs to be approved by the Minister of Justice (Act No. 2012-1132, art. 38) and the amounts awarded to its members are also determined by the Minister (art. 25).

94. Furthermore, the procedure for the appointment of members of the regional commissions needs to be reviewed. The National Human Rights Commission should, legally, have a say in the appointment procedure which is currently carried out by order of the Ministry of Justice, Human Rights and Public Freedoms following a proposal from the prefect of the region (Act No. 2012-1132, art. 12). It is also vital that the Commission should raise its profile, which depends on whether it has adequate resources, on the courage and commitment of its members as well as on the constructive cooperation of the public authorities.

95. The National Human Rights Commission is not yet two years old. Indeed, its work is still in the early stages and it has at times been faced with security challenges from within the country. The Commission needs to develop and implement a good information strategy for its activities and cultivate its relations with outside bodies. This requires improved internal organization, capacity-building for its members and increased funds that are spent wisely. With that in mind, reports on the human rights situation in Côte d'Ivoire drawn up by the Commission should be published and quickly made available to the public. Similarly, the Commission's website should be made a priority. These recommendations will help the Commission to better comply with the Paris Principles.

G. Independent Electoral Commission

96. The 2015 presidential elections will be a critical time to test the strength of the efforts made by Côte d'Ivoire in favour of democracy. It is the responsibility of the Ivorian

Government and also that of all other key players on the political scene, such as political parties, civil society (both modern and traditional) and the international community, to protect and build on those efforts through constructive, technical cooperation.

97. The Independent Electoral Commission is a constitutional institution (Constitution, article 32, para. 4). Its aim is to ensure that elections are transparent and lawful. It represents an institutional achievement intended to put an end to the time when elections were organized and monitored by the Ministry of the Interior alone. A sustained dialogue has been initiated with the opposition parties in order to ensure the balanced representation of all political parties within the Commission. The outcome was satisfactory, with the inclusion of an opposition party.

98. The Independent Electoral Commission is faced with many challenges in ensuring that the forthcoming presidential elections run smoothly. It is primarily a question of updating the electoral register, mapping electoral districts and reforming the Electoral Code. However, the greatest challenges relate to training opportunities for politicians and ways in which they will educate voters. Security is also a major challenge and must be assured so that all citizens can adequately exercise their right to vote in satisfactory conditions. In principle, all Ivorian citizens aged 18 or over have the right to vote. In order to meet this standard, it is necessary to find a solution to the fact that many citizens do not have identity cards. Moreover, it is crucial to address the situation of Ivorians living abroad so that they can exercise their right to vote. For instance, it is estimated that there are between 60,000 and 80,000 Ivorians in Liberia.

99. There is no doubt that the Independent Electoral Commission is an important step towards achieving peaceful and transparent elections. Nonetheless, the lack of civil society representatives in local commissions is disappointing. There is a tendency to justify this by the difficulties encountered in finding a balance of representatives from all parts of the country, but many civil society actors are not convinced. Moreover, the refusal of one opposition party to participate in the Independent Electoral Commission is likely to weaken the Commission's power and undermine its authority. Political dialogue should continue in order to overcome this setback as efficiently as possible.

100. Voter apathy should be combated by raising more awareness of the fact that voting is extremely important for the future of the country. The Commission should also ensure that all political parties have equal access to the audiovisual media (all of which are State-owned) and to the official print media. It is also important to continue enhancing security in the country because that is the foundation on which any lasting political, economic and social progress can be built. All of these aspects require consistent support from the international community.

V. Conclusions and recommendations

A. Conclusions

101. **It is noteworthy that, during its universal periodic review, Côte d'Ivoire accepted almost all the recommendations made by the Member States of the United Nations Human Rights Council. On 18 and 19 March 2015, Côte d'Ivoire also submitted its initial report, 20 years overdue, to the Human Rights Committee. This attitude shows that Côte d'Ivoire is committed to constructive collaboration. This report seeks to modestly strengthen this process and to provide guidance to the Ivorian Government in its efforts to honour its international human rights obligations for the benefit of the Ivorian people.**

B. Recommendations

102. **The Independent Expert recommends that the Ivorian authorities should:**

(a) Ensure an impartial and fair justice system that will contribute to reconciliation and lasting peace in the country;

(b) Bring detainees to trial within a reasonable time limit and to provisionally release those who should not be detained pending trial;

(c) Strengthen efforts to combat impunity by prohibiting amnesties for serious violations of human rights and international humanitarian law, including sexual violence;

(d) Adopt an implementing decree for Act No. 2014-388 of 20 June 2014 on the promotion and protection of human rights defenders and set up a monitoring mechanism for the effective implementation of the Act;

(e) Ratify the second optional protocol to the International Covenant on Civil and Political Rights in order to complete the ongoing process to abolish the death penalty;

(f) Make the necessary amendments to Act No. 2012-1132 of 13 December 2012 on the establishment, powers, organization and functioning of the National Human Rights Commission in order to improve its compliance with the Paris Principles, in particular, its independence from the Ministry of Justice, Human Rights and Public Freedoms and its financial autonomy;

(g) Strengthen social policy in order to allow the benefits of economic growth to be fairly distributed among all sectors of the Ivorian population;

(h) Improve detention conditions in prisons and facilitate access of humanitarian and human rights organizations to persons detained by the National Surveillance Directorate;

(i) Accelerate the disarmament, demobilization and reintegration of former FRCI combatants and reforms within the security sector;

(j) Issue clear orders, through chains of command and codes of conduct, prohibiting violence against civilians by members of the security forces.

103. **The Independent Expert recommends that the international community should:**

(a) Provide financial support and technical assistance for the Government's capacity-building efforts in the judicial system with a view to combating, in an impartial way, impunity for crimes committed since the beginning of the crisis in Côte d'Ivoire;

(b) Provide financial and technical support for the victims' reparation fund established by the Ivorian authorities;

(c) Provide Côte d'Ivoire with guidance in the organization of free and transparent elections and assist in its efforts to reform, reconstruct and develop the country.

104. **The Independent Expert recommends that the United Nations should maintain the UNOCI mission until the achievements of Côte d'Ivoire in terms of security and progress towards greater respect for human rights are properly consolidated.**